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NO. 84-1103

IN THE SUPREME COURT OF THE
UNITED STATES
OCTOBER TERM, 1984

WILLIAM LLOYD HILL

PETITIONER

VS.

A.L. LOCKHART, DIRECTOR
ARKANSAS DEPARTMENT OF
CORRECTION

RESPONDENT

ON WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

BRIEF FOR RESPONDENT
IN OPPOSITION TO PETITION

STEVE CLARK
Attorney General

ALICE ANN BURNS
Deputy Attorney General
Justice Building
Little Rock, AR 72201
501/371-2007

ATTORNEYS FOR
RESPONDENT

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QUESTION PRESENTED FOR REVIEW

WHETHER A STATE PRISONER IS ENTITLED TO AN EVIDENTIARY HEARING IN UNITED STATES DISTRICT COURT HABEAS CORPUS PROCEEDING WHERE THE PRISONER HAS PLEAD IN HIS PETITION THAT HIS STATE COURT NEGOTIATED GUILTY PLEA WAS INVOLUNTARY AND RESULTED FROM INEFFECTIVE REPRESENTATION OF COUNSEL IN THAT HIS ATTORNEY MISADVISED HIM AS TO HIS POTENTIAL PAROLE ELIGIBILITY DATE AND AS A RESULT OF THAT ADVICE THE PRISONER ACCEPTED THE PLEA OFFER AND ENTERED THE GUILTY PLEA?

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OPINION BELOW

The opinion of the Eighth Circuit Court of Appeals is reported, viz, Hill v. Lockhart, 731 F.2d 568 (8th Cir. 1984). A copy of the opinion is included in petitioner's appendix B, pp. 1-12. The district court opinion is included in petitioner's appendix A, pp. 1-13.

JURISDICTIONAL STATEMENT

Respondent agrees that this Court has discretionary jurisdiction to review this case.

CONSTITUTIONAL PROVISIONS AND STATUTES

The applicable constitutional provisions are set forth in Petitioner's Brief at p. 2.

Ark. Stat. Ann. §43-2828(2) (Repl.
1977) provides:

43-2828. Classification of inmates. -- For the purposes of this Act [§§43-2828 - 43-2833], inmates shall be classified as follows:

(2) Second offenders shall be inmates convicted of two or more felonies and who have been once incarcerated in some correctional institution in the United States, whether local, state or federal, for a crime which was a felony under the laws of the jurisdiction in which the offender was incarcerated, prior to being sentenced to a correctional institution in this State for the offense or offenses for which they are being classified.

Ark. Stat. Ann. §43-2829 B.(3)
(Repl. 1977) provides:

43-2829. Parole eligibility.
--.

B. Persons who commit felonies on and after April 1, 1977, and shall be convicted and incarcerated for the same, shall be eligible for release on parole as follows: * * *

(3) Inmates classified as second offenders under this Act upon entering a correctional institution in this State under sentence from a circuit court shall not be eligible for release on parole until a minimum of one-half (1/2) of their sentence shall have been served, with credit for good time allowances, or one-half (1/2) of the time to which sentence is commuted by executive clemency, with credit for good time allowances.

Arkansas Rules of Criminal Procedure 25.3, Ark. Stat. Ann. Vol. 4A

(Repl. 1977) provides:

RULE 25.3 Responsibilities of the Trial Judge.

(a) The judge shall not participate in plea discussions.

(b) If a plea agreement has been reached which contemplates entry of a plea of guilty or nolo contendere in the expectation that the charge or charges will be reduced, that other charges will be dismissed, or that sentence concessions will be granted, upon request of the parties the trial judge may permit the disclosure to him of the agreement and the reasons therefor in advance of the time for tender of the plea.

He may then indicate whether he will concur in the proposed disposition. If, after the judge has indicated his concurrence with a plea agreement and the defendant has entered a plea of guilty or nolo contendere, but before sentencing, the judge decides that the disposition should not include the charge or sentence concessions contemplated by the agreement, he shall so advise the parties and then in open court call upon the defendant to either affirm or withdraw his plea.

(c) If the parties have not sought the concurrence of the trial judge in a plea agreement or if the judge has declined to indicate whether he will concur in the agreement, he shall advise the defendant in open court at the time the agreement is stated that:

(i) the agreement is not binding on the court; and

(ii) if the defendant pleads guilty or nolo contendere the disposition may be different from that contemplated by the agreement.

(d) A verbatim record of all proceedings had in open court pursuant to subsections (b) and (c) of this rule shall be made and preserved by the court.

STATEMENT OF THE CASE

Respondent concurs in petitioner's
Statement of the Case.

x

ARGUMENT

Petitioner contends he was misinformed by defense counsel regarding parole eligibility laws and that, as a result of that erroneous advice, he accepted the plea offer of the State of Arkansas and entered guilty pleas to first degree murder and theft of property. Petitioner asserts that the decision to deny habeas corpus relief rendered by the Eighth Circuit Court of Appeals should be reviewed because it is in conflict with decisions of other courts, particularly the Fourth Circuit Court of Appeals.

Respondent believes that review should be denied because petitioner's plea of guilty was not induced by defense counsel's erroneous advice.

Thus, the decision by the Eighth Circuit Court of Appeals was correct and in line with case law from other jurisdictions.

Both the district court and the Eighth Circuit Court of Appeals determined that petitioner's parole eligibility was not part of the bargain when petitioner entered his plea of guilty, nor was it a consideration in petitioner's decision to plead guilty. A-3, B-5, B-6. The basis for this determination was the transcript of the hearing at which petitioner entered his pleas. A-2, A-3, B-6. As noted by the district court, petitioner affirmed to the State trial court at the hearing that the terms of the plea agreement with the State included terms of incarceration of 35 and 10 years respectively. The State court thereupon entered judgment and sentenced

petitioner accordingly. Petitioner was then advised by the court that he would be required to serve at least one-third of his time before being eligible for parole. A-2, 3. At some point prior to the hearing, defense counsel also informed petitioner he would be required to serve one-third of his time before becoming eligible for parole. B-3, 4.

Respondent thus does not dispute the fact that petitioner was misinformed, both by the court and defense counsel. Under the applicable Arkansas law, petitioner, as a second offender, is required to serve one-half of his term before becoming eligible for parole, and petitioner was not so advised. A-2, 7; B-1, 2, 3, 4. The Courts below properly denied habeas corpus relief, in the absence of an evidentiary hearing, however, because

(1) parole eligibility is a collateral, not a direct consequence, of a guilty plea and misinformation thereon does not render a defendant's plea involuntary; and (2) it is unnecessary to communicate parole eligibility requirements to a defendant who desires to plead guilty and thus, defense counsel's erroneous advice thereon does not render counsel ineffective.

In reaching its conclusion, the Eighth Circuit Court of Appeals relied upon a previous decision it had rendered, United States v. DeGand, 614 F.2d 176 (8th Cir. 1980). DeGand claimed that he had not plead guilty with full knowledge of the consequences because the district court failed to inform him that his federal sentence might not run concurrently with his state sentence. The sentencing record

indicated that DeGand had been fully advised of his rights. Defense counsel had advised DeGand that he "hoped" the sentence would run concurrently. In denying relief, the Eighth Circuit stated that the "... erroneous advice of counsel as to the penalty which may be imposed does not, by itself, lead to manifest injustice sufficient to allow a defendant to withdraw his guilty plea." 614 F.2d at 178.

The district court and the Eighth Circuit decisions also relied upon Hunter v. Fogg, 616 F.2d 55 (2d Cir. 1980). The petitioner there sought habeas corpus relief claiming the court, the prosecutor and defense counsel had misled him regarding his guilty plea because he had been misinformed about his parole eligibility date. The defense attorney there advised petition-

er what he "might anticipate" as to parole eligibility but did not promise a definite sentence. Although accepting petitioner's claim he had been misinformed, the Second Circuit stated that "the voluntariness of a guilty plea is not undermined by a lack of explanation as to the mechanics of a parole system." 616 F.2d at 61.

Respondent submits that generally, a defendant need not be informed regarding his parole eligibility because that matter is not a direct consequence of his guilty plea. See, e.g., Trujillo v. United States, 377 F.2d 266 (5th Cir. 1967); United States v. Garcia, 698 F.2d 31 (1st Cir. 1983); Brown v. Perini, 718 F.2d 784, 786 (6th Cir. 1983); United States v. Garcia, 636 F.2d 122, 123 (5th Cir. 1981); Strader v. Garrison, 611 F.2d 61, 65 (4th Cir.

1979); Roberts v. United States, 491 F.2d 1236, 1238 (3d Cir. 1974); Hunter v. Fogg, 616 F.2d at 61 (2nd Cir. 1980); Smith v. United States, 324 F.2d 436, 440-441 (D.C. Cir. 1963). This general principle also applies in Arkansas. Carter v. State, 283 Ark. 23, 670 S.W.2d 439 (1984) (matter of parole lies solely within control of Department of Correction and it would be sheer speculation for attorney or court to advise defendant regarding percentage of time to be served). See also, Deason v. State, 263 Ark. 56, 61, 562 S.W.2d 79 (1978). Since it is unnecessary for a defendant to be informed regarding parole eligibility, it necessarily has followed that erroneous advice on that issue is not grounds on which a guilty plea may be vacated. Brown v. Perini, 718 F.2d at 784, 788; Little v.

Allsbrook, 731 F.2d 238 (4th Cir. 1984);
Hunter v. Fogg, 616 F.2d 55 (2d Cir.
1980). See also, "Adequate Representa-
tion -- Guilty Pleas," 10 ALR 4th §33,
pp. 185-190 (1981, Supp. Sept. 1984).

Petitioner, as well as the
dissenting opinion to the decision
rendered below, rely on Strader v.
Garrison, supra, in support of their
respective positions that a guilty
plea should be vacated in such cases.
The basis for that position is that a
defendant, having plead guilty upon
erroneous advice regarding parole
eligibility, has not been fully
informed of the consequences of his
plea. Furthermore, defense counsel
who misinforms a defendant has not been
effective in his representation and
thus, the defendant has been denied
his right to competent counsel.

Strader, and a comparison case, O'Tuel v. Osborne, 706 F.2d 498 (4th Cir. 1983) are distinguishable from the circumstances of the instant case. In both cases there was a finding that the petitioner's guilty plea was induced by misadvice of defense counsel regarding parole eligibility.

The Strader Court stated:

Here, though parole eligibility dates are collateral consequences of the entry of a guilty plea of which a defendant need not be informed if he does not inquire, when he is grossly misinformed, he is deprived of his constitutional right to counsel. When the erroneous advice induces the plea, permitting him to start over again is the imperative remedy for the constitutional deprivation. 611 F.2d at 65.

That Strader and O'Tuel are not controlling is indicated by a later decision rendered by the Fourth Circuit Court of Appeals, Little v. Allsbrook, 731 F.2d 238 (4th Cir. 1984). In the

Little case, petitioner entered a negotiated plea to second degree murder and was sentenced to 25 to 30 years imprisonment. Little testified at his subsequent habeas corpus hearing that defense counsel told him the "deal worked out" was that Little could make parole in five years. Defense counsel denied making any promise to Little regarding the sentence he would receive and told petitioner he would be eligible for parole after serving one-fifth of his maximum sentence, but no maximum sentence had been set as yet.

The district court granted habeas corpus relief because of defense counsel's gross misinformation regarding parole possibilities, relying on Strader and O'Tuel. In reversing the district court and holding those cases

inapplicable, the Fourth Circuit noted that neither petitioner nor defense counsel knew what sentence would be imposed. 731 F.2d at 241. The Court of Appeals stated:

An attorney's 'bad guess' as to sentencing does not justify the withdrawal of a guilty plea and is no reason to invalidate a plea. In Wellnitz v. Page, 420 F.2d 935 (10th Cir. 1970), the Tenth Circuit held that 'an erroneous sentence estimate by defense counsel does not render a plea involuntary. And a defendant's erroneous expectation, based on his attorney's erroneous estimate, likewise does not render a plea involuntary.' 420 F.2d at 936-7. (citations omitted)

* * *

Here, Little based his alleged expectation of parole eligibility solely on his attorney's sentence estimate and advice as to the parole eligibility formula. Because Little was never given specific assurance as to what his sentence would be, he could not have been "grossly misinformed" about his parole eligibility, and Wilkinson's advice could not have deprived him of his constitutional right to the

effective assistance of counsel. To permit Little to vitiate his plea on the basis of his purported expectation would distort beyond reason the limits of Strader and O'Tuel and would open the door to habeas relief for all prisoners whose lawyers underestimated the length of their sentences. Such a holding would seriously undermine the finality of judgments entered pursuant to plea bargains.

731 F.2d at 241-242.

Respondent submits the instant case is comparable to Little v. Allsbrook, supra. Neither the State nor defense counsel made any promise to petitioner regarding parole eligibility to be served. In fact, the sentencing hearing indicates the State only recommended to the trial court that a total sentence of 35 years be imposed. Respondent's Appendix, p.A-1,2. In Arkansas, that recommendation is not binding on the trial court. Ark. R. Crim. P. 25.3, Ark. Stat. Ann. Vol. 4A

(Repl. 1977). See also, petitioner's Plea Statement, attached to Respondent's Response, where petitioner indicated he understood the trial court was not required to carry out the negotiated sentence and that power of sentence was with the court only. Respondent's Appendix B, p. B-3. Although no evidentiary hearing has been held in this case, none is needed since the sentencing hearing is reflected in the state court record and indicates petitioner was aware of his rights and the proceedings. Brown v. Perini, 718 F.2d 784, 787-788 (6th Cir. 1983). No promises, other than the negotiated plea, were made to petitioner regarding parole eligibility as indicated in the state court record. Respondent's Appendix, p. A-4. Moreover, as indicated by the district court

petitioner possessed not the right but the possibility of parole pursuant to applicable Arkansas statutes. Robinson v. Mabry, 476 F.Supp. 1022 (E.D. Ark. 1979). Defense counsel merely made an erroneous prediction about the amount of time petitioner would have to serve before becoming eligible for parole. That advice did not form the basis of any promise on which petitioner relied when he plead guilty. Thus, petitioner was not denied his right to the effective assistance of counsel.

The decision of the Eighth Circuit Court of Appeals is correct and not in conflict with a decision rendered by the Fourth Circuit Court of Appeals. Further, the decision denying habeas corpus relief is based on sound legal reasoning supported by case law from other jurisdictions.

CONCLUSION

Rule 17.1 of the Rules of the Supreme Court states that review on certiorari will only be granted when there are special and important reasons therefor. Respondent respectfully submits the decision rendered by Eighth Circuit Court of Appeals is in harmony with other jurisdictions and habeas corpus relief was properly denied.

For these reasons, and for the reasons and authorities cited in respondent's brief in opposition to the petition for writ of certiorari, respondent respectfully prays that review on writ of certiorari be denied.

Respectfully submitted,

STEVE CLARK
Attorney General

ALICE ANN BURNS
Deputy Attorney General
Justice Building
Little Rock, AR 72201
501/371-2007

Certificate of Service

I certify that on this 31st day
of January, 1985, the foregoing was
mailed to Jack T. Lassiter, 2224 South
Main Street, P.O. Box 1228, Little
Rock, AR 72203.

Alice Ann Burns

RESPONDENT'S APPENDIX

Plea of Guilty	Appendix A, 1-8
Plea Statement	Appendix B, 1-4

IN THE CIRCUIT COURT OF PULASKI COUNTY,
ARKANSAS
FOURTH DIVISION

STATE OF ARKANSAS PLAINTIFF

VS. No. CR-78-1922

WILLIAM LLOYD HILL DEFENDANT

PLEA OF GUILTY

BE IT REMEMBERED, that on the 6th day of April, 1979, the same being a day of the regular March 1979 Term of the Pulaski Circuit Court, Fourth Division, this cause came on to be heard, the State being represented by the Honorable Lloyd Haynes, Deputy Prosecuting Attorney, and the defendant being represented by the Honorable William Patterson, thereupon, the following proceedings were had and done, as follows:

MR. PATTERSON: Your Honor, this is Case CR-78-1922.

THE COURT: William Lloyd Hill. The charge is Murder in the First Degree, Count 1. Count 2 alleges Theft of Property. Is this a negotiated plea?

MR. PATTERSON: Yes, your Honor.

THE COURT: And, what is the negotiated plea for?

MR. HAYNES: Your Honor, the State has agreed upon a plea of guilty to recommend that Mr. Hill receive a total sentence of 35 years in the Arkansas

Appendix A
A-1

State Penitentiary.

THE COURT: Thirty-five years on Murder in the First Degree?

MR. HAYNES: Yes, sir, and then the other one will be ten years and that will be concurrent with it for a total of 35.

THE COURT: Are you William Lloyd Hill?

DEFENDANT HILL: Yes, sir.

THE COURT: And you want to plead to this charge with this sentence in mind?

DEFENDANT HILL: Yes, sir.

THE COURT: Are you guilty?

DEFENDANT HILL: Yes, sir.

THE COURT: This Information alleges on October the 1st, 1978, that you did unlawfully, feloniously, with the premeditated and deliberated purpose of causing the death of Darrel Pitts, did cause the death of Darrel Pitts with a .38 caliber pistol. Did you do that?

DEFENDANT HILL: Yes, sir.

THE COURT: It further alleges that you committed a theft of property on an unmentioned date.

MR. HAYNES: Same date, your Honor.

THE COURT: The same date. Is that the way you understood it?

Appendix A
A-2

MR. PATTERSON: Yes, sir.

THE COURT: In Pulaski County. It states that for the purpose of depriving the owner of his property, take unauthorized control over property having a value in excess of \$100.00, such being the property of Darrel Pitts. Did you do that?

DEFENDANT HILL: Yes, sir.

THE COURT: And, was that on October the 1st, 1978, also?

DEFENDANT HILL: Yes, sir.

THE COURT: All right. Is this your signature on the bottom of this plea statement?

DEFENDANT HILL: Yes, sir.

THE COURT: Has your attorney explained this statement to you?

DEFENDANT HILL: Yes, sir.

THE COURT: Do you understand it?

DEFENDANT HILL: Yes, sir.

THE COURT: Do you have any questions about it?

DEFENDANT HILL: No, sir.

Appendix A
A-3

THE COURT: Any threats or promises made to get you to enter the plea of guilty?

DEFENDANT HILL: No, sir.

THE COURT: Other than the negotiated plea?

DEFENDANT HILL: No, sir.

THE COURT: Tell me shortly just in your own words what happened in this case? Where were you, first, the location?

DEFENDANT HILL: In Little Rock. We started out at a bar, the Gas Light, and he, Darrel Pitts, did something that I didn't like and it ended up in my shooting him and I stole his car. That is basically the run down of the facts.

THE COURT: These things that he did that you didn't like, was it necessary that you shoot him?

DEFENDANT HILL: I felt like it was.

THE COURT: Well, in what respect?

DEFENDANT HILL: Well, he hit me in the teeth with a gun. He also stabbed another person the same night and I just felt threatened by him. I am not saying I should have killed him but that was my way of solving the problem.

THE COURT: Where did you get the pistol?

DEFENDANT HILL: It was his pistol, a 36. Derringer.

THE COURT: Did you take it away from him?

DEFENDANT HILL: No. After he hit me in the teeth with it, when he got in the car he threw it at me and later on, after we took the other guy to the hospital, on the way back that is when I used it and shot him.

THE COURT: Did he have a pistol?

DEFENDANT HILL: No, your Honor. He had a knife.

THE COURT: Was he threatening you with a knife?

DEFENDANT HILL: He didn't have it pointed at me but he had it where it could have been used as a weapon against me.

THE COURT: Was he driving the car at the time you shot him?

DEFENDANT HILL: No. I was driving the car.

THE COURT: You were driving the car? Whose car was it?

DEFENDANT HILL: His car.

THE COURT: What did you do with him after you shot him?

DEFENDANT HILL: Put him in the Arkansas Traveler Motel. It was our room. We were working on a construction crew and being kept at that motel and then I took off and fled the state with his car and his gun.

THE COURT: How did you get him into the room?

DEFENDANT HILL: I carried him in, kinda drug him in.

THE COURT: Well, all things considered, of course, you understand that you are entitled to trial by jury on this case and have them determine your guilt or innocence, as well as fix the punishment in this case. Do you understand that?

DEFENDANT HILL: Yes, sir. I understand that.

THE COURT: You are entitled to call witnesses in your own behalf and cross examine witnesses called by the state. Are you aware of that?

DEFENDANT HILL: Yes, sir; I am.

THE COURT: All things considered, it is your decision after advising with your attorney to enter a plea of guilty on the negotiated plea for 35 years for murder and 10 years for theft of property?

DEFENDANT HILL: Yes, sir; it is.

THE COURT: All right. I accept your plea of guilty. It is the judgment and sentence of this court that you be sentenced to the state penitentiary for a period of 35 years, murder in the first degree; a period of two years for theft of property. The sentences will run concurrently. It is agreed under the negotiated plea. You will be required to serve at least one third of your time before you are eligible for parole. Be assessed the costs of this action. This is on a negotiated plea and recommendation of the state.

MR. PATTERSON: Your Honor, may we get credit for jail time?

THE COURT: How long have you been in jail on this charge?

DEFENDANT HILL: Four months.

MR. PATTERSON: Just about four months, your Honor.

THE COURT: The defendant is allowed credit for four months served. Do you have any questions about the plea or sentence or anything having to do with this case?

DEFENDANT HILL: No, sir.

THE COURT: That is all.

MR. PATTERSON: Thank you, your Honor. May we be excused?

THE COURT: Yes.

(THEREUPON, the Plea of Guilty of William Lloyd Hill was concluded.)

- - -

REPORTER'S CERTIFICATE

I, Marjorie Marie Gachot, Official Court Reporter of the Pulaski Circuit Court, Fourth Division, hereby certify that the above and foregoing pages constituting the Pleas of Guilty contain a true and correct transcript of the proceedings introduced upon these Pleas of Guilty, as taken down by me in machine shorthand at the time and thereafter reduced to typewriting, under my supervision.

WITNESS my hand and seal this 7th day of October, 1980.

/s/Marjorie Marie Gachot
MARJORIE MARIE GACHOT, RPR

MY COMMISSION EXPIRES:

July 13, 1984.

(SEAL)

FILED: October 21, 1980.
Jacquetta Alexander,
Circuit Clerk

Appendix A
A-8

IN THE CIRCUIT COURT OF PULASKI
COUNTY, ARKANSAS

STATE OF ARKANSAS PLAINTIFF

vs. DOCKET NO. 78-1922

WILLIAM L. HILL DEFENDANT

PLEA STATEMENT

You are charged with 1st DEGREE MURDER & THEFT OF PROPERTY in the Pulaski County Circuit Court. It is necessary that you fully understand the entire contents of this document.

You are charged with a ([felony]/misdemeanor) and with 0 prior convictions. You could receive a sentence of from 5-50 OR Life in the ([state penitentiary]/county jail) and/or a fine of up to \$15,000.00.

You have a right to plead not guilty and to be tried before the Court or a jury with the burden on the State of proving your guilt beyond a reasonable doubt. At the trial, you would have the right to testify or not testify. If you were found not guilty, you would be released on the charges for which you were tried. If, after determining the facts with instructions on the law from the court, the jury found you guilty, then they would fix your punishment. If you waive your right to trial by jury and elect a court trial, the court will determine both the facts and the law.

Appendix B
B-1

On the other hand, if you are guilty, you have a right to plead guilty to the Judge and the Judge would decide what your sentence should be.

With these thoughts in mind, you must answer each of the following questions and initial your response:

YES NO INITIALS

1. Do you understand the minimum and maximum possible sentences for the offense with which you have been charged?

X WLH

2. Do you understand that your plea of guilty is a waiver of your right to a trial by jury and of your right to appeal to the Ark. Supreme Court? . . .

X WLH

3. Do you fully understand what you are charged with having done?

X WLH

4. Have you discussed your case fully with your attorney and are you satisfied with his services? . . .

X WLH

YES NO INITIALS

5. Are you certain
that your plea of
guilty has not been
induced by any
force, threat, or
promise apart from
a plea agreement? . X WLH

6. Do you realize
that the Judge is
not required to
carry out any
understanding bet-
ween you, your
attorney, and the
prosecuting
attorney, and that
the power of
sentence is with
the Court only? . . . X WLH

If your answer is "yes" to each of
the preceeding questions, and if you
fully understand every detail of your
guilty plea, then carefully read the
following statement and sign in the
appropriate space with your lawyer
witnessing your signature.

I am aware of everything in this
document. I fully understand what my
rights are, and I voluntarily plead
guilty because I am guilty as charged.

/s/William L. Hill
DEFENDANT'S SIGNATURE

Appendix B
B-3

I have carefully explained this document to the accused. To the best of my knowledge he fully understands all of it. His plea of guilty is consistent with the facts he has related to me and with my own investigation of the case.

April 6, 1979 /s/William Patterson, Jr.
DATE ATTORNEY'S SIGNATURE

C E R T I F I C A T I O N
State of Arkansas)
) ss
County of Pulaski)

I, Jacquetta Alexander, Clerk of the Circuit Court, within and for the County and State aforesaid, do hereby certify that the foregoing is a true and correct copy of the Plea Statement on file in this office in the above entitled cause.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court this 8th day of June, 1982.

Jacquetta Alexander, Circuit Clerk

By /s/Brenda Tapley
Deputy Clerk

Appendix B
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